

2094--A

Cal. No. 360

2013-2014 Regular Sessions

I N S E N A T E

January 10, 2013

Introduced by Sens. GOLDEN, AVELLA, GIPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the domestic relations law, in relation to the standing of certain relatives in custody and guardianship proceedings

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 2 of section 72 of the domestic relations law,
2 as added by chapter 657 of the laws of 2003, is amended to read as
3 follows:
4 2. (a) Where a grandparent or the grandparents of a minor child,
5 residing within this state, OR RELATIVE WHO IS RELATED TO A PARENT WITH-
6 IN THE SECOND DEGREE OF CONSANGUINITY OR THROUGH MARRIAGE OR ADOPTION,
7 RESIDING IN THIS STATE can demonstrate to the satisfaction of the court
8 the existence of extraordinary circumstances, such grandparent [or],
9 grandparents OR RELATIVE of such child may apply to the supreme court by
10 commencing a special proceeding or for a writ of habeas corpus to have
11 such child brought before such court, or may apply to family court
12 pursuant to subdivision (b) of section six hundred fifty-one OR SECTION
13 SIX HUNDRED SIXTY-ONE of the family court act; and on the return there-
14 of, the court, by order, after due notice to the parent or any other
15 person or party having the care, custody, and control of such child, to
16 be given in such manner as the court shall prescribe, may make such
17 directions as the best interests of the child may require, for custody
18 rights for such grandparent [or], grandparents OR RELATIVE in respect to
19 such child. An extended disruption of custody, as such term is defined
20 in this section, shall constitute an extraordinary circumstance.
21 (b) For the purposes of this section "extended disruption of custody"
22 shall include, but not be limited to, a prolonged separation of the

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 respondent parent and the child for at least twenty-four continuous
2 months, during which TIME the parent voluntarily relinquished care and
3 control of the child and the child resided in the household of the peti-
4 tioner grandparent [or], grandparents OR RELATIVE, provided, however,
5 that the court may find that extraordinary circumstances exist should
6 the prolonged separation have lasted for less than twenty-four months
7 AND PROVIDED THAT WHERE THE PARENT PROVES BY PREPONDERANCE OF THE
8 EVIDENCE THAT AN ACT OR ACTS OF DOMESTIC VIOLENCE COMMITTED AGAINST THE
9 PARENT CONTRIBUTED TO THE RELINQUISHMENT OF CARE AND CONTROL, THE COURT
10 SHALL FIND NO EXTRAORDINARY CIRCUMSTANCES EXIST.

11 (c) Nothing in this section shall limit the ability of parties to
12 enter into consensual custody agreements absent the existence of
13 extraordinary circumstances.

14 S 2. This act shall take effect immediately.